IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3017 of 2003

For Approval and Signature:

Hon'ble ACTING CHIEF JUSTICE MR.JN BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MOHANSINH NARSINH SOLANKI (RAJPUT)

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 3017 of 2003

MR HR PRAJAPATI for Petitioner No. 1

MS HARSHA DEVANI AGP for Respondent No. 1-3

MS PJ DAVAWALA for Respondent No. 4

CORAM : ACTING CHIEF JUSTICE MR.JN BHATT

Date of decision: 28/05/2003

ORAL JUDGEMENT

1. The short question, which revolves round in this petition under Article 226 of the Constitution, is as to whether the delay caused in sending or forwarding the

representation of the petitioner-detenu to the authority concerned would vitiate the detention order or not. In order to appreciate and examine this aspect, this Court has heard the learned advocates and has dispassionately examined the entire record, and it has been found that the delay in such cases is fatal. Even in a Division Bench decision of this Court in Urmila Navnitlal vs. Commissioner of Police, Surat City reported in 1994(2) GLH U.J 10, it has been held that even the delay of five days in considering the representation, and not properly explained, would be fatal and the detention order would be invalid.

2. In the result, the petition is allowed. The impugned order of detention is quashed and set aside, and the detenu is ordered to be set at liberty forthwith, if not required in any other case. Rule is made absolute without any order as to costs. Direct service is permitted.

(J.N. BHATT, ACTING C.J.)

[SNDEVU]
P.S.